

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

APLUS Holdings Inc.

SUMMONS IN A CIVIL ACTION

V.

Ivan Vachovsky and Lilian Vachovsky

CASE NUMBER

08 CV 2760

JUDGE CEDARBAUM

TO: (Name and address of Defendant)

Lilian Vachovsky
17181 Camino Acampo
San Diego, CA 92067

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

MAR 14 2008

CLERK

DATE

Marcos Quintero

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

| RETURN OF SERVICE | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------|
| Service of the Summons and complaint was made by me ⁽¹⁾ | DATE | |
| NAME OF SERVER (<i>PRINT</i>) | TITLE | |
| <i>Check one box below to indicate appropriate method of service</i> | | |
| <div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div> | | |
| STATEMENT OF SERVICE FEES | | |
| TRAVEL | SERVICES | TOTAL \$0.00 |
| DECLARATION OF SERVER | | |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ <div style="display: flex; justify-content: space-around; width: 100%;"> Date Signature of Server </div> <div style="text-align: center; margin-top: 20px;"> _____ Address of Server </div> </p> | | |

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

| | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Eric F. Leon (EL-5780) / Laura B. Kadetsky (LK-8039) KIRKLAND & ELLIS LLP 153 East 53 rd Street New York, New York 212-446-4800 51557.cjy | | |
| UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK | | |
| APLUS Holdings Inc. <div style="text-align: center;">v.</div> Ivan Vachovsky and Lilian Vachovsky | Plaintiff (s) Defendant (s) | CASE NUMBER: <div style="text-align: center;">08 cv 2760</div> PROOF OF SERVICE SUMMONS AND COMPLAINT (Use separate proof of service for each person/party served) |

1. At the time of service I was at least 18 years of age and not a party to this action and I served copies of the (*specify documents*):
 - a. ☒ summons ☒ complaint ☐ alias summons ☐ first amended complaint
☐ second amended complaint
☐ third amended complaint
 - ☒ other (*specify*): Civil Cover Sheet; Rule 7.1 Disclosure Statement; Individual Practices of Judge Miriam G. Cedarbaun; Individual Practices of Magistrate Douglas F. Eaton; 3rd Amended Instructions for Filing an Electronic Case or Appeal; Procedures for Electronic Case Filing; Guidelines for Electronic Case Filing
2. Person served:
 - a. ☒ Defendant (*name*): Lilian Vachovsky
 - b. ☐ Other (*specify name and title or relationship to the party/business named*):
 - c. ☒ Address Where papers were served: 6151 Avenida Picacho, Rancho Santa Fe, CA 92067
3. **Manner of service** in compliance with (*the appropriate box must be checked*):
 - a. ☒ Federal Rules of Civil Procedure
 - b. ☐ California Code of Civil Procedure
4. **I served** the person named in item 2:
 - a. ☒ **By Personal service.** By personally delivering copies. If the person is a minor, by leaving copies with a parent, guardian, conservator or similar fiduciary and to the minor if at least (12) years of age.
 1. ☒ **Papers were served on** (*date*): 03/19/08 *at (time)*: 5:39 pm
 - b. ☐ **By Substituted service.** By leaving copies:
 1. ☐ (**home**) at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household, at least 18 years of age, who was informed of the general nature of the papers.
 2. ☐ (**business**) or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers.
 3. ☐ **Papers were served on** (*date*): _____ *at (time)*: _____
 4. ☐ **by mailing** (by first-class mail, postage prepaid) copies to the person served in item 2(b) at the place where the copies were left in Item 2(c).
 5. ☐ **papers were mailed on** (*date*): _____
 6. ☐ **due diligence.** I made at least three (3) attempts to personally serve the defendant.

- c. ☐ **Mail and acknowledgment of service.** By mailing (*by first-class mail or airmail, postage pre-paid*) copies to the person served, with two (2) copies of the form of Waiver of Service of Summons and Complaint and a return envelope, postage prepaid to the sender. (**Attach completed Waiver of Service of Summons and Complaint**).
- d. ☐ **Service on domestic corporation, unincorporated association (including partnership), or public entity. (F.R.Civ.P.4(h)) (C.C.P. 416.10)** By delivering, during usual business hours, a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment of by law to receive service of process and, if the agent is one authorized by statute and the statute so requires, a mailing, by first-class mail, postage prepaid, a copy to the defendant.
- e. ☐ **Substituted service on domestic corporation, unincorporated association (including partnership), or public entity. (C.C.P. 415.20 only)** By leaving during usual office hours, a copy of the summons and complaint in the office of the person served with the person who apparently was in charge and thereafter by mailing (*by first-class mail, postage prepaid*) copies to the persons at the place where the copies were left in full compliance with C.C.P. 415.20. Substitute service upon the California Secretary of state requires a court order. (**Attach a copy of the order to this proof of service**).
- f. ☐ **Service on a foreign corporation.** In any manner prescribed for individuals by FRCP 4(f).
- g. ☐ **Certified or registered mail service.** By mailing to an address outside California (*by first-class mail, postage prepaid, requiring a return receipt*) copies to the person served. (**Attach signed return receipt or other evidence of actual receipt by the person served**).
- h. ☐ **Other** (specify code section and type of service):
5. **Service upon the United States, and Its Agencies, Corporations or Officers.**
- a. ☐ by delivering a copy of the summons and complaint to the clerical employee designated by the U.S. Attorney authorized to accept service, pursuant to the procedures for the Office of the U.S. Attorney for acceptance of service, or by sending a copy of the summons and complaint by registered or certified mail addressed to the civil process clerk at the U.S. Attorneys Office.
Name of person served:
Title of person served:
Date and time of service: (date): _____ at (time): _____
- b. ☐ By sending a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C. (**Attached signed return receipt or other evidence of actual receipt by the person served**).
- c. ☐ By sending a copy of the summons and complaint by registered or certified mail to the officer, agency or corporation (**Attach signed return receipt or other evidence of actual receipt by the person served**).
6. At the time of service I was at least 18 years of age and not a party to this action.
7. Person serving (*name, address and telephone number*):

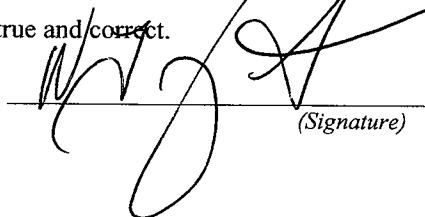
W. Tracy Kroft, Registration #1343/County of San Diego
NATIONWIDE LEGAL, INC.
121 BROADWAY, SUITE 332
SAN DIEGO, CA 92101
619-232-7500

- a. Fee for service: \$
- b. ☐ Not a Registered California Process Server
- c. ☐ Exempt from registration under B&P 2235(b)
- d. ☒ Registered California Process Server

8. ☐ I am a California sheriff, marshal, or constable and I certify that the foregoing is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 03/26/08


(Signature)